



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 4924-99

8 February 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 January 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 8 October 1953 at the age of 17.

Your record reflects that on 9 April 1956 you were convicted by general court-martial (GCM) of two periods of unauthorized absence (UA) totalling 262 days. You were sentenced to reduction to paygrade E-1, confinement at hard labor for 18 months, forfeitures of pay for 18 months, and a bad conduct discharge (BCD). On 29 August 1956 you submitted a written request for restoration to duty, however, this request was denied. On 20 March 1957 you submitted a request for immediate execution of the BCD. Subsequently, your request for the BCD was approved at all levels of review and ordered executed. On 31 May 1957 you received a BCD.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, good post service conduct, character reference letters, and your contention that you would like your discharge upgraded. The Board also considered your contention

that had your situation occurred today, you would have received clemency. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the serious nature of your lengthy periods of UA and your subsequent request for immediate execution of your discharge. Further, such lengthy periods of UA would result in a BCD even under today's standards. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director